



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,090	05/04/2006	Toshiya Daikyo	2006_0042A	2392
513 7590 07/09/2010 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
BYRD, LATRICE CHENELL				
ART UNIT		PAPER NUMBER		
3782				
NOTIFICATION DATE		DELIVERY MODE		
07/09/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com

coa@wenderoth.com

Office Action Summary

Application No.

10/595,090

Applicant(s)

DAIKYO ET AL.

Examiner

LATRICE BYRD

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-50 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 30-50 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a paper package having a first horizontal fold parallel with a bottom portion and passing through upper vertexes of triangular surfaces and a second horizontal fold parallel to a top portion and passing through lower vertexes of upper triangular projections with at least one auxiliary fold parallel with and spaced apart from said first horizontal fold must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 30-50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. The specification nor the drawings describe a paper package having both a first horizontal fold parallel with a bottom portion and passing through upper vertexes and a second horizontal fold parallel to a top portion and passing through lower vertexes with at least one auxiliary fold parallel with and spaced apart from said first horizontal fold as claimed in independent claims 30, 37 and 44. Instead the specification describes two embodiments.
5. One embodiment includes figures 5-10 which has a horizontal fold (31) parallel to the bottom portion of the paper package and passing through upper vertexes (28) of triangular surfaces (27) with at least one auxiliary fold (32,33) parallel to and spaced from the horizontal fold. Another embodiment includes figure 11 which has a first

horizontal fold (31) parallel to the bottom portion of the paper package and passing through upper vertexes (28) of triangular surfaces (27) with a second horizontal fold (34) parallel to the top portion of the paper package and passing through lower vertexes (23) of upper triangular projections (21) with no auxiliary folds.

6. It is not described in the specification or illustrated how the paper package would function with horizontal folds passing through both the upper vertexes and the lower vertexes while an auxiliary fold is formed parallel to and spaced apart from the first horizontal fold.

7. Claims 30-50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not explain how the paper package would function with horizontal folds passing through both the upper vertexes and the lower vertexes while an auxiliary fold is formed parallel to and spaced apart from the first horizontal fold as claimed in independent claims 30, 37 and 44.

8. Would the first horizontal fold and the auxiliary fold both be on a front or back portion while the second horizontal fold is on the opposite portion? If all three, the first and second horizontal folds and the auxiliary fold, were all on either the front or back, would the portions collapse upon one another inwardly? The drawings nor the specification show the claimed subject matter nor do either explain how the claimed limitations would work together.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 30-36 and 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmstrom (USPN 4,267,957) in view Schwartz (USPN 6,202,716 B1), Haines (USPN 393,899), Maloney (USPN 1,722,931) and Kawaguchi et al. (USPN 7,322,492) as best understood.

11. In re claims 30-34, 36, 44-48 and 50, Holmstrom discloses a package configuration comprising

a press-deformable packaging; and

wherein said press-deformable package is constituted by a paper package of thick paper material having a waterproof thin film on an inner surface thereof;

wherein said paper package has a rectangular box shape formed of a folded cylinder with an upper edge sealed and bent to form a rectangular top portion (3) having protruded upper triangular projections (5), a lower edge sealed and bent to form a rectangular bottom portion (3) having protruded lower triangular projections (5) and being disposed opposite said top portion, a rectangular front portion (1), a rectangular back portion (1) opposite said front portion, and a pair of laterally oppositely disposed lateral surfaces (1) connecting between said front and back portions and between said top and bottom portions, said protruded upper triangular projections being downwardly-

folded against and weakly thermally bonded to said lateral surfaces, respectively, and said protruded lower triangular projections being downwardly and inwardly-folded against said bottom portion.

Holstrom fails to disclose triangular surfaces defined in the lateral surfaces along the bottom portion with a first horizontal fold along the front or back portion parallel to the bottom portion and passing through upper vertexes of the triangular surfaces and a second horizontal fold parallel to the top portion and passing through lower vertexes of the upper triangular projections. However, Haines teaches defining triangular surfaces in lateral walls of a package with horizontal folds along a wall panel parallel to each end of the package and passing through the vertexes of each of the vertexes formed at each end and $\frac{1}{2}$ the width of each end portion. It would have been obvious to one of ordinary skill in the art to have formed triangular surfaces in the lateral surfaces of Holstrom and included horizontal folds to intersect vertexes formed at each end as taught by Haines to enable the package to be collapsed to reduce the size of the package after use.

Holstrom also fails to disclose an auxiliary fold parallel to and spaced apart from a horizontal fold line. However, Maloney teaches a package with a horizontal fold (23) which passes through the vertexes of triangular surfaces along the bottom of lateral walls having an auxiliary fold (28) parallel thereto. It would have been obvious to one of ordinary skill in the art to have modified the package of Holstrom to include an auxiliary fold passing along vertexes of triangular surfaces on the walls as taught by Maloney in order to fold the bottom portion along a wall to allow the package to be collapsed for storage.

Holstrom also fails to disclose a straw insertion section formed at the top portion and configured for insertion of a straw and at least one through hole. However, Kawaguchi et al. discloses a package configuration with a straw insertion section (21) formed at a rear top portion configured for insertion of a straw (10) with a through hole (DH) between a stop section and a bottom opening (IO). It would have been obvious to one of ordinary skill in the art to have further modified the package by providing a straw with a through hole and a straw insertion section in the package of Holstrom as taught by Kawaguchi et al. in order to provide a means for dispensing the beverage inside the package and to allow any left over contents to be discharged to prevent waste of the product contained.

Holstrom further fails to disclose a stop section on a straw. However, Schwartz teaches a stop section (14) on a straw of a package engaged with the inner surface of a package (column 8, lines 39-41). It would have been obvious to one of ordinary skill in the art to have further modified the package of Holstrom with a straw having a stop section as taught by Schwartz in order to prevent the straw from removal while in use with the package.

12. In re claims 35 and 49, Holstrom discloses does not expressly disclose the contents of the package having a viscosity of 10 mPa*s and or more. However, Holstrom does disclose the package being used for milk. It would have been obvious to one of ordinary skill in the art to have chosen to use the paper package of Asanuma for containing a contents of at least 10 mPa*s in viscosity as it is well-known to use paper

packages having waterproof thin film on its inner surface to contain products of that nature.

13. Claims 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asanuma (USPN 4,550,826) in view, Schwartz (USPN 6,202,716 B1), Haines (USPN 393,899), Maloney (USPN 1,722,931) and Kawaguchi et al. (USPN 7,322,492) as best understood.

14. In re claims 37-41 and 43, Asanuma discloses a package configuration comprising

a press-deformable packaging having a straw insertion section (8); and
wherein said press-deformable package is constituted by a paper package of thick paper material having a waterproof thin film on an inner surface thereof;
wherein said paper package has a rectangular box shape formed of a folded cylinder with an upper edge sealed and bent to form a rectangular top portion (6) having protruded upper triangular projections (14), a lower edge sealed and bent to form a rectangular bottom portion (10) having protruded lower triangular projections (14) and being disposed opposite said top portion, a rectangular front portion (2), a rectangular back portion (2) opposite said front portion, and a pair of laterally oppositely disposed lateral surfaces (4) connecting between said front and back portions and between said top and bottom portions, said protruded upper triangular projections being downwardly-folded against said lateral surfaces, respectively, and said protruded lower triangular projections being downwardly and inwardly-folded against said bottom portion, and a film seals and wraps around said upper triangular projections;

wherein the straw insertion section is formed on a rear portion at said top portion of said upper paper package and configured for insertion of a straw.

Asanuma fails to disclose triangular surfaces defined in the lateral surfaces along the bottom portion with a first horizontal fold along the front or back portion parallel to the bottom portion and passing through upper vertexes of the triangular surfaces and a second horizontal fold parallel to the top portion and passing through lower vertexes of the upper triangular projections. However, Haines teaches defining triangular surfaces in lateral walls of a package with horizontal folds along a wall panel parallel to each end of the package, passing through the vertexes of each of the vertexes formed at each end and $\frac{1}{2}$ the width of each end portion. It would have been obvious to one of ordinary skill in the art to have formed triangular surfaces in the lateral surfaces of Asanuma and included horizontal folds to intersect vertexes formed at each end as taught by Haines to enable the package to be collapsed to reduce the size of the package after use.

Asanuma also fails to disclose an auxiliary fold parallel to and spaced apart from a horizontal fold line. However, Maloney teaches a package with a horizontal fold (23) which passes through the vertexes of triangular surfaces along the bottom of lateral walls having an auxiliary fold (28) parallel thereto. It would have been obvious to one of ordinary skill in the art to have modified the package of Asanuma to include an auxiliary fold passing along vertexes of triangular surfaces on the walls as taught by Maloney in order to fold the bottom portion along a wall to allow the package to be collapsed for storage.

Asanuma further fails to disclose a stop section on the straw. However, Schwartz teaches a stop section (14) on a straw of a package engaged with the inner surface of a package (column 8, lines 39-41). It would have been obvious to one of ordinary skill in the art to have further modified the package of Asanuma with a straw having a stop section as taught by Schwartz in order to prevent the straw from removal while in use with the package.

Asanuma also fails to disclose a straw having at least one through hole disposed between a stop section and a bottom opening. However, Kawaguchi et al. discloses a package configuration with a straw (10) having a through hole (DH) between a stop section and a bottom opening (IO). It would have been obvious to one of ordinary skill in the art to have further modified the package of Holstrom with a straw with a through hole as taught by Kawaguchi et al. in order to allow any left over contents to be discharged to prevent waste of the product contained.

15. In re claim 42, Asanuma does not expressly disclose the contents of the package having a viscosity of 10 mPa*s and or more. However, Phillips, Jr. teaches a paper package used for milk or juice. It would have been obvious to of ordinary skill in the art to have chosen to use the paper package of Asanuma for containing a contents of at least 10 mPa*s in viscosity as Phillips, Jr. does as it is well-known to use paper packages having waterproof thin film on its inner surface to contain products of that nature.

Response to Arguments

16. Applicant's arguments with respect to claims 30-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE BYRD whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Thu 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/
Examiner, Art Unit 3782

/Gary E. Elkins/
Primary Examiner, Art Unit 3782